

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Document #

19

Brunson

-v-

Artus

U.S.C.A. #

U.S.D.C. #

07-cv-7579

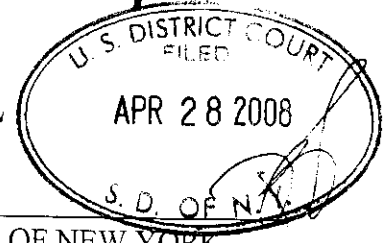
JUDGE:

LAK

DATE:

April 28, 2008

INDEX TO THE RECORD ON APPEAL



PREPARED BY (NAME):

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DISTRICT COURT DOCKET ENTRIES

DOCUMENT DESCRIPTION

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CLERK'S CERTIFICATE

SEE ATTACHED LIST OF NUMBERED DOCUMENTS

\*\* ONLY CIRCLED DOCUMENTS ARE INCLUDED \*\*

\*\* ALL OTHERS MISSING AT THIS TIME \*\*

☒ Original Record

☐ Supplemental Record

The record in the above entitled case was indexed to the U.S.C.A.  
for the Second Circuit on the 28th Day of April, 2008.

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SOUTHERN DISTRICT OF NEW YORK

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-v-

et al

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Clerk's Certificate

I, J. Michael McMahon, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered 1 Through 18, inclusive, constitutes the Original record on appeal in the above entitled proceedings except for the following missing documents:

Date Filed

Document Description

**BALANCE OF FILE MISSING AT THIS TIME**

In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York, this 28<sup>TH</sup> Day of April In this year of our Lord, Two Thousand and Eight, and the Independence of the United States this 232<sup>ND</sup> year.

J. Michael McMahon, Clerk

By \_\_\_\_\_

  
Deputy Clerk

APPEAL, CLOSED, HABEAS, PRO-SE

**U.S. District Court**  
**United States District Court for the Southern District of New York (Foley Square)**  
**CIVIL DOCKET FOR CASE #: 1:07-cv-07579-LAK**  
**Internal Use Only**

Brunson v. Artus  
Assigned to: Judge Lewis A. Kaplan  
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 08/27/2007  
Date Terminated: 03/06/2008  
Jury Demand: None  
Nature of Suit: 530 Habeas Corpus (General)  
Jurisdiction: Federal Question

Date Filed	#	Docket Text
08/27/2007	<u>1</u>	ENDORSEMENT on Declaration in Support of Request to Proceed In Forma Pauperis, I.F.P. REQUEST IS GRANTED. (Signed by Judge Kimba M. Wood on 08/23/2007) The Clerk's Office Has Mailed Copies.(jma) (Entered: 08/30/2007)
08/27/2007		Magistrate Judge George A. Yanthis is so designated. (jma) (Entered: 08/30/2007)
08/27/2007	<u>2</u>	PETITION FOR WRIT OF HABEAS CORPUS pursuant to 28 U.S.C. 2254. Document filed by Justice Brunson.(ae) Modified on 2/29/2008 (ae). (Entered: 02/29/2008)
09/12/2007	3	NOTICE OF CASE REASSIGNMENT to Judge Lewis A. Kaplan. Judge Charles L. Brieant is no longer assigned to the case. (laq) (Entered: 09/14/2007)
09/12/2007		Magistrate Judge Gabriel W. Gorenstein is so designated. (laq) (Entered: 09/14/2007)
09/14/2007		Mailed notice to the attorney(s) of record. (laq) (Entered: 09/14/2007)
10/19/2007	<u>5</u>	Rule 4(m) Letter. Please make arrangements to have the summons and complaint promptly served on defendants by filing out and forwarding to the U.S. Marshal the forms provided to you by the Pro Se office. If service is not made upon the defendant(s) or you fail to show good cause why such service has not been effected Judge Kaplan will dismiss the action on December 26, 2007. (dj) (Entered: 11/01/2007)
10/29/2007	<u>4</u>	Rule 4(m) Warning Letter addressed and forwarded to Justice Brunson. Please make arrangement to have the summons and complaint promptly served on defendant(s) by filling out and forwarding to the U.S. Marshal the forms provided to you by the Pro Se Office. If service is not made upon the defendant(s) or you fail to show good cause why such service has not been effected Judge Kaplan will dismiss the action on December 26, 2007. (dj) (Entered: 11/01/2007)
11/01/2007		Received Return Receipt of <u>4</u> Remark, as to Justice Brunson, which was served by Certified Mail #7002 2410 0002 6963 5658, on 10/22/07. (dj) (Entered: 11/01/2007)
11/29/2007	<u>6</u>	ORDER: The motion to suppress is entirely without merit, not cognizable on habeas corpus, and is denied. The motion for appointment of counsel is likewise denied without prejudice to renewal in the event an evidentiary hearing is required. The Court does not see sufficient likelihood of merit in the petition. The District Attorney or the Attorney General of the State of New York, as applicable, is directed to respond to the petition within 30 days of the date hereof. (Signed by Judge Lewis A. Kaplan on 11/27/07) Copies Mailed By Chambers.(js) (Entered: 12/06/2007)
01/03/2008	<u>7</u>	ENDORSED LETTER addressed to Judge Lewis A. Kaplan from Leilani Rodriguez dated 12/12/07 re: counsel for defendants request a sixty day extension from the original due date until 2/25/08 to file my response. ENDORSEMENT: Time extended to 1/25/08. (Signed by Judge Lewis A. Kaplan on 12/19/07) (dle) (Entered: 01/07/2008)
01/03/2008	<u>8</u>	ENDORSED LETTER addressed to Judge Lewis A. Kaplan from Justice Brunson dated 12/17/2007 re: requesting permission to amend my Petition. ENDORSEMENT: Granted provided amended petition is filed by 2/3/2008. (Signed by Judge Lewis A. Kaplan on 1/3/2008) (jar) (Entered: 01/07/2008)
01/31/2008	<u>9</u>	LETTER addressed to Judge Lewis A. Kaplan from Justice Brunson dated 12/5/07 re: Pro Se plaintiff writes in response to the Order signed by Judge Lewis A. Kaplan denying his petition. Plaintiff also writes in regards to requesting forms from the pro se office that he has not received yet. Document filed by Justice Brunson.(ae) (Entered: 01/31/2008)
02/25/2008	<u>10</u>	DECLARATION of Leilani Rodriguez in Opposition to Petition for a Writ of Habeas Corpus. (rw) (Entered: 02/26/2008)
02/25/2008	<u>11</u>	MEMORANDUM OF LAW in Opposition re: <u>10</u> Declaration in Opposition. Document filed by Dale Artus. (rw) (Entered: 02/26/2008)
02/25/2008	<u>12</u>	STATE COURT TRANSCRIPT of proceedings in the Supreme Court, County of New York, Case Number 3623/02, held on 3/31/2003 before Judge Edward J. McLaughlin. (Volume 1 of 2) (rw) Modified on 2/26/2008 (rw). (Entered: 02/26/2008)
02/25/2008	<u>13</u>	STATE COURT TRANSCRIPT of proceedings in the Supreme Court, County of New York, Case Number 3623/02, held on 5/15/2003 before Judge Bonnie Wittner. (Volume 2 of 2)(rw) (Entered: 02/26/2008)
03/05/2008	<u>14</u>	ORDER that the petition is denied in all respects. The Clerk shall close the case. As no substantial question is presented, the Court denies a certificate of appealability and certifies that any appeal herefrom would not be taken in good faith within the meaning of 28 U.S.C. 1915(a)(3). (Signed by Judge Lewis A. Kaplan on 3/5/08) Copies mailed by chambers. (dle) (Entered: 03/05/2008)
03/05/2008		Transmission to Judgments and Orders Clerk. Transmitted re: <u>14</u> Order,, to the Judgments and Orders Clerk. (dle) (Entered: 03/05/2008)
03/05/2008	<u>15</u>	ENDORSED LETTER addressed to Judge Lewis A. Kaplan from Justice Brunson dated 2/27/08 re: pro se plaintiff requests permission from the Court to appeal to Second Circuit or an evidentiary hearing. ENDORSEMENT: Certificate of appealability denied. Any appeal from the 11/26/07 order would not be taken in good faith. (Signed by Judge Lewis A. Kaplan on 3/5/08) Copies mailed by chambers.(dle) (Entered: 03/05/2008)

03/06/2008	<u>16</u>	CLERK'S JUDGMENT That for the reasons stated in the Court's Order dated March 5, 2008, the petition is denied in all respects; the Court finds that because no substantial showing is presented, a certificate of appealability is denied; the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal herefrom would not be taken in good faith. (Signed by J. Michael McMahon, clerk on 3/6/08) (Attachments: # <u>1</u> notice of right to appeal)(ml) (Entered: 03/06/2008)
03/07/2008	<u>17</u>	MOTION for an order granting petitioner request that the fingerprints be suppressed. Document filed by Justice Brunson.(dle) (Entered: 03/10/2008)
03/10/2008		Mailed notice of Right to Appeal to Pro Se Litigant(s): Justice Brunson. (ama) (Entered: 03/10/2008)
03/25/2008	<u>18</u>	NOTICE OF APPEAL from <u>16</u> Clerk's Judgment. Document filed by Justice Brunson. Copies mailed to attorney(s) of record: Attorney General, NYS. (tp) (Entered: 04/24/2008)
03/25/2008		Appeal Remark as to <u>18</u> Notice of Appeal filed by Justice Brunson. \$455.00 APPEAL FEE DUE. IFP REVOKED 3/5/08. COA DENIED 3/5/08. (tp) (Entered: 04/24/2008)
04/24/2008		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>18</u> Notice of Appeal. (tp) (Entered: 04/24/2008)
04/24/2008		Transmission of Notice of Appeal to the District Judge re: <u>18</u> Notice of Appeal. (tp) (Entered: 04/24/2008)